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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,188	12/30/2003	Daniel R. Schlinz	19,043	9141
23556	7590	10/04/2006		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER ANDERSON, CATHARINE L	
			ART UNIT 3761	PAPER NUMBER

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/750,188	SCHLINZ ET AL.	
	Examiner C. Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 July 2006.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) 3-6, 17 and 18 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1,2 and 7-16 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/11/05, 6/28/04, 5/21/04.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of Species I in the reply filed on 14 July 2006 is acknowledged.

It is noted that the Applicant has withdrawn claim 3 but not claim 4. Since claim 4 depends from claim 3, claim 4 is also considered withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 7-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Gompel et al. (6,132,410).

With respect to claims 1 and 2, Van Gompel discloses an absorbent garment, as shown in figure 1, having a front and rear waist regions and a crotch region. The garment comprises a liquid barrier layer 30, a stretchable carrier layer 50, an elastic layer 52 and 53, and an absorbent section 48, as shown in figures 1A and 1B. The elastic layer 53 is attached to the stretchable carrier layer 50, as shown in figure 1B. The absorbent section 48 is disposed on the inner surfaces of the liquid barrier layer 30 and the stretchable carrier layer 50, as shown in figures 1 and 1A.

With respect to claims 7 and 8; the elastic layer 52 and 53 is attached to the carrier layer 50 on both sides of the lateral center line in both the front 59 and rear 58 waist regions, as shown in figure 1.

With respect to claim 9, the carrier layer 50 is fully capable of being stretched in the lateral direction.

With respect to claim 10, the elastic layer 52 has a fastener element 70 attached, as shown in figure 1.

With respect to claim 11, an elastic ear material 36 is bonded to the side edge of the elastic layer 52, as shown in figure 1.

With respect to claim 12, the ear material 36 has a fastener element 70 attached, as shown in figure 1.

With respect to claims 13-16, Van Gompel discloses in column 21, lines 57-67, the method of making the garments is disclosed in U.S. Patent 4,938,753, which is incorporated by reference. Van Gompel ('753) discloses the method of forming a series of garments and selectively cutting into individual garments, as shown in figure 14 and disclosed in column 12, lines 3-37.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 6,264,639 and 5,700,255 disclose absorbent garments comprising elastic layers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*CMA*  
cla  
September 27, 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

